

Group V: Claims 76-90 and 93, drawn to a method of screening for a substance, e.g., inhibitor;

Group VI: Claim 91, drawn to a kit for a substance inhibitor, for example; and

Group VII: Claim 95, drawn to a bacterial strain.

In response, applicants elect to prosecute the claims of Group I (claims 50-56 and 94).

The Examiner also required that applicants elect one of various disclosed species from various claims for examination. In view of applicants' election of the claims of Group I for prosecution, the relevant requirements are that applicants elect adenylate cyclase or guanylate cyclase from claim 51, and that applicants elect a first and second segment of the enzyme as recited in claim 53.

In response, applicants elect adenylate cyclase from claim 51, and "(a) a fragment T25 corresponding to amino acids 1 to 224 of CyaA and a fragment T18 corresponding to amino acids 225 to 399 of CyaA" from claim 53, with traverse.

### **Traversal**

The Office alleges that the election of species from claims 51 and 53 is justified because "Each of the species recited in each of the subgroups[,] e.g., A[,] differs in structure and possibly mode of action. A prior art reference anticipating one species would not render obvious the other species. Hence, different patentability determinations are involved for each structurally different species." Applicants respectfully submit that this basis does not justify requiring applicants to file multiple patent applications to have the subject matter of claims 51 and 53 examined.

Claims 51 and 53 depend from claim 50. By definition, the subject matter of claims 51 and 53 is encompassed by claim 50. Thus, any adequate search of claim 50 necessarily must include an adequate search of each and every species encompassed by claims 51 and 53, even if, as the Office admits, each species encompassed by claims 51 and 53 is individually patentably distinct from every other such species. The Office will necessarily have already conducted a thorough search of claims 51 and 53 in the process of searching claim 50. Thus, searches of every species encompassed by claims 51 and 53 does not present a serious burden on the Office—or indeed any additional burden—and applicants are entitled to have the Office examine the full scope of claims 51 and 53 in this application. See M.P.E.P § 803 (“If the search and examination of the entire application can be made without serious burden, the examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions.” (emphasis added)).

**Conclusion**

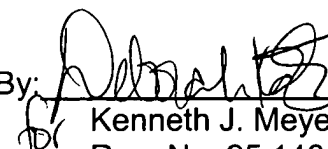
Applicants respectfully request the timely examination and allowance of elected claims 50-56 and 94.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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